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DEPARTMENT OF CORRECTIONS
LANSING

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DIRECTOR

DIRECTOR'S OFFICE MEMORANDUM 2007 - 5

EFFECTIVE: Immediately

DATE: January 1, 2007

TO: Executive Policy Team
Administrative Management Team
Wardens

FROM: Patricia L. Caruso, Director

SUBJECT: PD 05.03.116 "Prisoners' Access to the Courts and Legal Assistance" – Legal Writer Program/Legal Assistance Agreements/Flash Kites/Notary Services

SUPERSEDES DOM 2006 - 3 (effective 01/01/06) and DOM 2006 - 14 (effective 12/14/06)

Legal Writer Program

The Legal Writer Program provides eligible prisoners in Correctional Facilities Administration (CFA) institutions with legal assistance on matters relating to their criminal conviction or conditions of confinement. Only prisoners not represented by counsel who are unable to effectively help themselves by using the law library or other available legal resources are eligible to receive the assistance. The legal assistance is provided through prisoners at the institution who are assigned to the Legal Writer Program and have successfully completed all required training ("legal writers"). A staff person designated by the Warden provides oversight and supervision of the program and supervises the legal writers. There is no attorney-client privilege between the legal writers and the prisoner receiving the assistance.

A prisoner is eligible to receive Legal Writer Program services if s/he meets any of the following criteria:

1. Does not have a verified GED or high school diploma.
2. Does not speak, read, or write English.
3. Has a documented physical or mental impairment or a learning disability which may affect his/her ability to use the law library to prepare and file a legible and coherent pleading.
4. Is undergoing reception center processing.
5. Is housed in any form of segregation other than temporary segregation.

6. Is housed in a Department operated inpatient medical unit.

An on-site Legal Writer Program is available only at institutions identified by the CFA Deputy Director. All prisoners requesting assistance from the Legal Writer Program shall be screened by a staff person designated by the Warden to determine the prisoner's eligibility. If a prisoner is determined to be eligible for the assistance, staff designated by the Warden shall make arrangements to have the prisoner meet with a legal writer. If the facility does not have an on-site Legal Writer Program, this may include transferring the prisoner to a facility which does have an on-site program.

After meeting with the prisoner, the legal writer will prepare all necessary pleadings, motions and other documents for the prisoner under the direction of off-site private attorneys under contract with the Department. The prisoner receiving the assistance will be responsible for obtaining required copies of the documents and mailing the documents to the courts or other parties. A prisoner who lacks adequate funds to pay for photocopying or postage shall be loaned the funds as set forth in PD 05.03.115 "Law Libraries" and PD 05.03.118 "Prisoner Mail", as applicable.

The CFA Deputy Director shall ensure that a manual regarding the Legal Writer Program is maintained and is available to each Warden for use by staff involved in the Legal Writer Program. The manual shall specifically include information on the oversight and supervision that is to be provided by staff at institutions that have an on-site Legal Writer Program.

Legal Assistance Agreements

Over the years, concerns have been raised regarding the inappropriate use of legal assistance agreements by prisoners. These concerns include but are not limited to prisoners charging for their legal services; entering into legal assistance agreements to receive joint law library call-outs in order to socialize with other prisoners with whom they have a personal relationship, to pass contraband, to meet with other prisoners with whom they would otherwise be prohibited from associating, or for other non-legitimate reasons; passing contraband in legal paperwork; refusing to complete legal work or refusing to return it to the prisoner receiving assistance; and forging legal assistance agreements.

After a careful evaluation of this continuing problem, I have determined that this conduct poses a threat to the custody and security of our institutions; therefore, prisoners shall no longer be allowed to enter into legal assistance agreements. Legal assistance will continue to be provided to eligible prisoners through the Legal Writer Program. In addition, prisoners shall continue to have access to law libraries for legal research as set forth in PD 05.03.115 "Law Libraries".

Prisoners who currently have an approved legal assistance agreement shall be permitted to continue to provide and receive assistance under that legal assistance agreement until the agreement expires (i.e., one year after approval) unless terminated by staff pursuant to PD 05.03.116; however, the legal assistance agreements shall not be renewed. All other terms and conditions of legal assistance agreements set forth in PD 05.03.116 remain in effect for the duration of the agreement.

Access to Courts– Flash Kite

An Access to Courts – Flash Kite (CSJ-600) has been available to prisoners in Correctional Facilities Administration institutions since 2002 as a means by which they could notify the Deputy Warden of

problems relating to legal mail, access to law library or legal property, legal photocopying requests, the Legal Writer Program, and other "access to courts" issues as identified on the form that need urgent resolution. Beginning February 1, 2007, these forms will no longer be used within the Department for this purpose; instead, prisoners may discuss these issues with appropriate staff, including supervisory staff, to seek resolution. If the problem remains unresolved, the prisoner may file a grievance pursuant to PD 03.02.130 "Prisoner/Parolee Grievances". The Manager of the Grievance and Appeals Section of the Office of Legal Affairs shall assign grievances codes to be used to identify these issues when grieved; the information on these grievances shall be separately identified in the monthly reports provided to the Grievance and Appeals Section pursuant to PD 03.02.130 "Prisoner/Parolee Grievances".

All staff are reminded that prisoners have a constitutional right of access to the courts. Department policy sets forth requirements to be followed to ensure this right is met, especially regarding legal mail, law library, legal property, and legal photocopying requests. Even though flash kites are being discontinued, Wardens shall continue to ensure that these policies are followed, including ensuring that any grievances on these issues are fully investigated in a timely manner and any corrective action is taken as appropriate.

Notaries Public

PD 05.03.116 continues to be revised to prohibit prisoners from serving as notaries public.

PLC:OLA:prds